

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**SPHEAR INVESTMENTS, LLC, a  
California Limited Liability Company,**

**CASE NO.: CIV 11-5345 AHM  
(PLAX)**

Plaintiff,

SUNGLASS INTERNATIONAL --  
SANTA BARBARA, LLC, a  
California Limited Liability Company;  
SUNGLASS INTERNATIONAL,  
LLC, a Hawaii Limited Liability  
Company; DOYLE G. BETSILL, an  
individual; and DOES 1-20, inclusive.

# JUDGMENT AGAINST DEFENDANT DOYLE G. BETSILL

**Santa Barbara Superior Court  
Case No. 1380939**

**Assigned for all Purposes to the  
Honorable A. Howard Matz**

On May, 30 2012, by an in chambers minute order, the honorable Howard A. Matz granted the unopposed motion for summary judgment (“Motion”) filed by Plaintiff Sphear Investments, LLC, a California limited liability company, against defendant Doyle Betsill, in pro per. Having considered all of the evidence submitted with the Motion, including Plaintiff’s Statement of Uncontroverted Facts and Conclusions of Law, and considering any opposition thereto, the Court FINDS, ORDERS, AND DECREES that based on the evidence cited below and submitted with the Motion, the following material facts are undisputed:

1                   **UNCONTROVERTED FACTS**

- 2       1. Plaintiff Sphear Investments, LLC (“Sphear”) and Sunglass International, LLC, a Hawaii limited liability company (“Sunglass International”), entered into a lease (the “Lease”) of a commercial space located at 811 State St., Suite H, Santa Barbara, California 93101 (the “Premises”).
- 3       2. Sunglass International made a security deposit of \$9,296.
- 4       3. Under the Lease, commencing April 15, 2007 and continuing during the term of the lease, Sunglass International agreed to pay rent in the amount of \$7,968 until March 1, 2008, and every anniversary thereafter, when the rent was increased by 3%.
- 5       4. Under the Lease § 16 et seq., Sunglass International was obligated to pay monthly to Sphear its estimated portion of common area maintenance, insurance, taxes, and utility costs, until the actual costs of such services could be reconciled with the estimated costs and the balance owed to Sphear or credited to Sunglass International.
- 6       5. The term of the Lease was five years commencing March 1, 2007 and expiring February 29, 2012.
- 7       6. The Premises and the shopping center where the Premises are situated (“Shopping Center”) is managed by Investec Management Corporation (“Investec”).
- 8       7. Defendant Doyle Betsill signed a written guaranty of the Lease providing that he would perform the obligations owed to Sphear under the Lease, including payment of all rent and other sums due under the Lease.

1                   **EVIDENCE IN SUPPORT**

- 2       1. Declaration of Kevin R. Nimmons (“Nimmons Decl.”) Exhs. A and B, Requests for Admission Nos. 1 and 2; Declaration of Roxanne Reed (“Reed Decl.”), ¶ 3.
- 3       2. Rogers Decl., ¶4, ¶ 7, ¶ 20, Exh. 1 [Tenant Ledger, p. 1], ¶ 12.)
- 4       3. Nimmons Decl. Exhs. A and B, Requests for Admission Nos. 1 and 2 [see Page 1 of Lease, “Fundamental Lease Provisions” re minimum monthly rent]; Reed Decl., ¶ 3
- 5       4. Nimmons Decl., Exhs. A and B, Requests for Admission Nos. 1 and 2; Reed Decl., ¶ 3; Brace Decl., ¶¶ 3-6; Rogers Decl., ¶¶ 13-19, Exhs. 2-6.
- 6       5. Reed Decl., ¶ 5; Nimmons Decl., Exhs. A and B, Requests for Admission Nos., 1 and 2 [see Page 1 of Lease, “Fundamental Lease Provisions”]
- 7       6. Reed Decl., ¶¶ 2-3.
- 8       7. Nimmons Decl., Exhs. A and B, Requests for Admission Nos. 32-34; Reed Decl., ¶ 6.

- 1       8. In May 2009, Sphear, Betsill, and  
2       Sunglass International, executed a  
3       First Amendment to Lease allowing  
4       Sunglass International rent  
5       concessions and rent deferrals as  
6       described in the First Amendment.
- 7       9. During the term of the lease,  
8       Sunglass International was given  
9       \$37,000 in rent concessions.
- 10      10. During the term of the lease,  
11      Sunglass International was given  
12      \$44,328.04 in rent deferrals.
- 13      11. In June 2009, Sphear agreed to  
14      amend the Lease again, this time to  
15      allow Sunglass International to  
16      change its permitted use and trade  
17      name, and the parties executed the  
18      Second Amendment to Lease  
19      providing for these changes.
- 20      12. In September, 2010, Sphear agreed  
21      to amend the Lease to allow  
22      Sunglass International to change its  
23      permitted use and trade name to  
24      allow it to operate as “Handbag  
25      Junction” selling handbags and  
26      related items, and the parties  
27      executed the Third Amendment to  
28      Lease providing for these changes.
13. No rent for March 2011 has ever  
been paid.
14. The last payment received by  
Investec or Sphear for rent owed by  
Sunglass International was in  
February 2011 for \$3,615.
15. On March 7, 2011, Steven Tidrick,  
counsel for Sunglass International,  
sent a letter to Roxanne Reed of  
Investec with the keys to the  
Premises and stating that Sunglass  
International had permanently  
vacated the Premises.
16. On March 15, 2011, pursuant to  
Civil Code 1951.3, Investec served  
a Notice of Belief of Abandonment,  
on Sunglass International and Dovle
8. Nimmons Decl., Exhs. A and B,  
Requests for Admission Nos. 25-  
26; Reed Decl., ¶ 7.
9. Karen Rogers (“Rogers Decl.”) ¶¶  
4-5, 8, Exh. 1 [Tenant Ledger  
showing rent concessions of  
\$37,000 from February 2009 to  
February 2012].
10. Rogers Decl., ¶¶ 4-5, 9-10, Exh. 1  
[Tenant Ledger showing rent  
deferrals from February 2009 to  
January 31, 2012].
11. Nimmons Decl., Exhs. A and B,  
Requests for Admission Nos. 17-  
19; Reed Decl., ¶ 9.
12. Reed Decl., ¶ 10, Exh. 1.
13. Reed Decl., ¶ 18; Rogers Decl. ¶¶  
4, 7; Exh. 1 [Tenant Ledger].
14. Reed Decl., ¶ 18; Rogers Decl. ¶¶  
4, 7; Exh. 1 [Tenant Ledger].
15. Reed Decl., ¶ 19, Exh. 10 [letter  
from Steven Tidrick stating  
Premises have been permanently  
vacated]
16. Reed Decl., ¶ 20; Declaration of  
Tyler Hansen (“Hansen Decl.”), ¶¶  
5-7, Exh. 1 [the notice], Exh. 2  
[return receipts].

- 1                   Betsill, using the proper method  
 2                   under the Lease, particularly  
 3                   paragraph 23.3 of the Lease, and to  
 4                   the proper addresses for notice  
 5                   under the Lease.
- 6                   17. By the expiration of the notice  
 7                   period stated in the Notice of Belief  
 8                   of Abandonment, none of the rent  
 9                   for March 2011 had been paid and  
 10                  no one had sent to Investec or  
 11                  Sphear any statement of intention to  
 12                  not abandon the Premises.
- 13                  18. As of April 2, 2011, Sunglass  
 14                  International had abandoned the  
 15                  Premises under Civil Code §  
 16                  1951.3, terminating the Lease.
- 17                  19. Sphear, through its leasing agent,  
 18                  Investec, was able to lease the  
 19                  Premises from November 18, 2011,  
 20                  to January 4, 2012 and received  
 21                  \$10,000 in rent; \$600 in  
 22                  commissions was paid to Investec as  
 23                  a commission for finding a tenant.
- 24                  20. Because Sunglass International  
 25                  breached the Lease, all amounts  
 26                  under the First Amendment to Lease  
 27                  for rent concessions and rent  
 28                  deferrals (\$37,000 and \$44,328.24  
 1                  respectively) are now due and  
 2                  owing, subject to offset by the  
 3                  security deposit of \$9,296 and CAM  
 4                  adjustments for 2010 and 2011.
- 5                  21. Sphear has suffered \$187,761.88 in  
 6                  damages.
- 7                  22. Betsill breached the Guaranty by  
 8                  failing to pay all amounts due by  
 9                  virtue of Sunglass International's  
 10                 breach of the Lease.
- 11                 23. As a proximate cause of Betsill's  
 12                 breach of the Guaranty, Sphear has  
 13                 suffered \$187,761.88 in damages.
- 14                 17. Reed Decl., ¶¶ 21-22; Rogers  
 15                 Decl., ¶¶ 4, 7; Exh. 1 [Tenant  
 16                 Ledger]; Hansen Decl., ¶ 8.
- 17                 18. Reed Decl., ¶¶ 20-22; Rogers  
 18                 Decl., ¶¶ 4, 7; Exh. 1 [Tenant  
 19                 Ledger]; Hansen Decl., ¶ 8.
- 20                 19. Reed Decl., ¶ 23; Rogers Decl., ¶  
 21                 22; Brace Decl., ¶ 7.
- 22                 20. Nimmons Decl., Exhs. A and B,  
 23                 Requests for Admission Nos. 25  
 24                 and 26 [First Amendment]; Rogers  
 25                 Decl., ¶ 4, Exh. 1 [Tenant Ledger],  
 26                 ¶¶ 7-12, 20, 21.
- 27                 21. Rogers Decl., ¶ 4, Exh. 1 [Tenant  
 28                 Ledger], ¶¶ 11-12, ¶¶ 13-22, Exhs.  
 1                 2-6 [CAM calculations and  
 2                 invoices], ¶ 23, Exh. 7 [Damage  
 3                 Summary]; Brace Decl., ¶¶ 3-6, 8.
- 2                 22. Reed Decl., ¶ 10, Exh. 1, ¶ 18, ¶  
 3                 20, ¶ 25; Rogers Decl. ¶¶ 4, 7;  
 4                 Exh. 1 [Tenant Ledger].
- 5                 23. Nimmons Decl., Exhs. A and B,  
 6                 Requests for Admission Nos. 25  
 7                 and 26 [First Amendment]; Rogers  
 8                 Decl., ¶ 4, Exh. 1 [Tenant Ledger],  
 9                 ¶¶ 7-12, 20, 21, ¶¶ 11-12, ¶¶ 13-

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4 24. By virtue of the Guaranty, Betsill  
owes \$187,761.88 in damages.

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9 22, Exhs. 2-6 [CAM calculations  
and invoices], ¶ 23, Exh. 7  
[Damage Summary]; Brace Decl.,  
¶¶ 3-6, 8.

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11 25. Sphear has fully performed all of its  
obligations owed under the Lease  
and Guaranty.

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13 24. Nimmons Decl., Exhs. A and B,  
Request for Admission Nos. 32-34  
[Guaranty]; Nimmons Decl., Exhs.  
A and B, Requests for Admission  
Nos. 25 and 26 [First  
Amendment]; Rogers Decl., ¶ 4,  
Exh. 1 [Tenant Ledger], ¶¶ 7-12,  
20, 21, ¶¶ 11-12, ¶¶ 13-22, Exhs.  
2-6 [CAM calculations and  
invoices], ¶ 23, Exh. 7 [Damage  
Summary]; Brace Decl., ¶¶ 3-6, 8.

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15 26. Neither Sphear nor Investec acted in  
bad faith or in breach of the Lease  
by refusing a proposed assignment  
of the Lease to a potential tenant  
(Robert Stephens) proposed by  
Sunglass International who would  
be selling self-serve frozen yogurt.

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17 25. Reed Decl., ¶ 25; Brace Decl., ¶  
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26. Reed Decl., ¶ 14, Exh. 7, ¶ 14,  
Exh. 8, ¶ 15, Exh. 9; Declaration  
of Helen Jepsen ("Jepsen Decl."),  
¶¶ 2-5, Exh. A.

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23 The Court further FINDS, ORDERS, and DECREES, that there is no  
genuine dispute as to any material fact and that under Federal Rule of Civil  
Procedure, Rule 56, Plaintiff Sphear Investments, LLC, a California limited  
liability company, is entitled to judgment as a matter of law against defendant  
Doyle Betsill on the second cause of action for breach of written guaranty in  
Plaintiff's Second Amended Complaint in the amount of \$187,761.88 plus  
interest. All unserved parties are dismissed without prejudice.

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26 The Court further FINDS, DECREES, and ORDERS that Judgment is  
entered in favor of plaintiff Sphear Investments, LLC, a California limited  
liability company against defendant Doyle Betsill as follows:

1           a. Defendant Doyle Betsill is ordered to pay to plaintiff Sphear  
2 Investments, LLC, a California limited liability company, \$187,761.88 in  
3 damages;

4           b. Defendant Doyle Betsill is ordered to pay to plaintiff Sphear  
5 Investments, LLC, a California limited liability company, \$18,293.61 in interest.

6           c. Plaintiff Sphear Investments, LLC, a California limited  
7 liability company, may file a motion for attorney's fees and apply for costs within  
8 15 days of entry of this Judgment.

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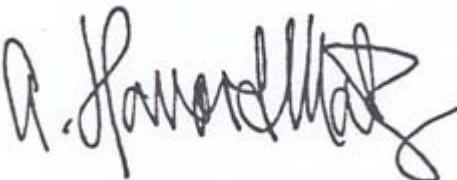
10          IT IS SO ORDERED this 11<sup>th</sup> day of June, 2012.

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The Honorable A. Howard Matz

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